

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

JOHN DAVID GARCIA,

Plaintiff,

vs.

No. CIV 08-0295 JB/WDS

THE UNITED STATES OF AMERICA and  
BEN GARCIA,

Defendants.

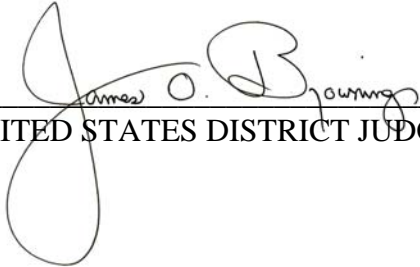
**ORDER**

**THIS MATTER** comes before the Court on Plaintiff John David Garcia's Motion to Strike or Limit Expert Opinions of Defendant USA's Proffered Expert Witness Monty K. Gibson, filed December 21, 2009 (Doc. 41). The Court held a hearing on February 12, 2010. The primary issue is whether the Court will prohibit Defendant United States of America's expert witness, Monty Gibson, from testifying to whether B. Garcia's conduct was in the scope of employment and whether it was reasonable or negligent. At the hearing, Brad Hall, J. Garcia's attorney, agreed that the Court could consider Gibson's testimony, and make determinations whether to credit it "on a question by question basis and a topic by topic basis" at the bench trial scheduled to take place April 1 and 2, 2010. Transcript of Hearing at 73:20-23 (Hall).<sup>1</sup> The Court accepts J. Garcia's invitation to hear the testimony and therefore denies his motion in limine.

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<sup>1</sup> The Court's citation to the transcript refers to the court reporter's original, unedited version. The final transcript may contain slightly different page and/or line numbers.

**IT IS ORDERED** that Plaintiff John David Garcia's Motion to Strike or Limit Expert Opinions of Defendant USA's Proffered Expert Witness Monty K. Gibson is denied.



UNITED STATES DISTRICT JUDGE

*Counsel and Parties:*

Robert B. Martinez  
Albuquerque, New Mexico

-- and --

Timothy A. Vollman  
Albuquerque, New Mexico

-- and --

Brad D. Hall  
Albuquerque, New Mexico

*Attorneys for the Plaintiff*

Gregory J. Fouratt  
United States Attorney  
Jan Elizabeth Mitchell  
Assistant United States Attorney  
Dori Ellen Richards  
Special Assistant United States Attorney  
Albuquerque, New Mexico

*Attorneys for Defendant United States of America*

Ben Garcia  
Albuquerque, New Mexico

*Defendant pro se*